



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/22/2147

Property at 50 Caplaw Road, Paisley, PA2 8QS (“the Property”)

The Parties: -

Grace McManus, 5 Stable Grove, Lochmill, Paisley, PA1 2DR (“the Applicant”)

Mr Allan Clark, Miss Gemma Andrews, 4 Todholm Crescent, Paisley, PA2 7JN (“the Respondents”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £3857.75 should be granted against the Respondents in favour of the Applicant.

Background

- 1. The Applicant seeks an order for payment in terms of Section 71 of the 2016 Act. A copy private residential tenancy agreement and rent statement were submitted with the application.**
- 2. A copy of the application was served on the Respondents by Sheriff Officer on 26 July 2022. Both parties were notified that a Case Management Discussion (“CMD”) would take place on 2 September 2022 at 10am by telephone conference call and that they were required to participate.**
- 3. The CMD took place at 10am on 2 September 2022. The Applicant was represented by Ms McManus, her daughter. The Respondents did not participate and were not represented.**

Case Management Discussion

4. The Tribunal noted that the current owner of the property is Grace McManus, who inherited it following the death of Mr McManus on 7 November 2021. Following discussion, the Tribunal confirmed that the name of the Applicant would be amended to Grace McManus as she is the owner and was the landlord of the property prior to the termination of the tenancy. The Tribunal also noted that the Sheriff Officers instructed to serve the application had established that the Respondents now reside at 4 Todholm Crescent, Paisley, prior to serving the application at this address. Following discussion, the application was amended to reflect this as their current address.
5. Ms McManus told the Tribunal that she received a text message from Ms Andrews on 11 July 2022 stating that the Respondents had vacated the property and put the keys through the letterbox. She arranged for her solicitor to write to the Respondents to acknowledge the message and confirm that the tenancy had been terminated, and the property recovered, on that date. The Tribunal noted that the rent statement lodged included rent due on 28 June 2022 for the period 28 June 27 July 2022. It therefore appeared that the sum claimed might require to be amended to reflect the fact that the tenancy had terminated on 11 July 2022. Ms McManus confirmed that she wished to amend the sum being claimed from £4160 to £3857.75, being the sum outstanding on 11 July 2022. In response to questions about the deposit, Ms McManus said that the Applicant has submitted a claim to the Tenancy Deposit Scheme for the whole deposit of £560 as the Respondents had caused damage to the property. The cost of re-instatement will exceed £560, and no part of the deposit can therefore be applied to the rent arrears.

Findings in Fact

6. The Applicant is the owner and former landlord of the property.
7. The Respondents were the tenants of the property in terms of a private residential tenancy. The tenancy terminated on 11 July 2022
8. The Respondents were due to pay rent at the rate of £560 per month.
9. The Respondents owe the sum of £3857.75 in unpaid rent.

Reasons for Decision

10. The application was submitted with a private residential tenancy agreement and other supporting documents. In terms of the tenancy agreement, rent was due to be paid at the rate of £560 per month. The tenancy terminated on 11 July 2022 when the Respondents returned the keys for the property, having already

moved out. The Applicant has applied to recover the tenancy deposit from the tenancy deposit scheme to cover the cost of re-instatement of the property as a result of damage cause by the Respondents. The Tribunal is satisfied that the Applicant is entitled to a payment order for the sum of £3857.75.

Decision

11. The Tribunal determines that an order for payment for the sum of £3857.75 should be granted in favour of the Applicant.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Josephine Bonnar, Legal Member

2 September 2022